1086. After an executed conveyance of a fee without covenants, no action ordinarily lies against the vendor if it transpires that he had no title. *Earle* v. *De Witt*, 6 All. (Mass.) 520; *Thorkildsen* v. *Carpenter*, 120 Mich. 419, 79 N. W. 636. But if the agreement is still executory the purchaser cannot be forced to take the vendor's defective title. *Vought* v. *Williams*, 120 N. Y. 253, 24 N. E. 195; *Smith* v. *Hunter*, 241 Ill. 514, 89 N. E. 686. And he may bring an action against the vendor for damages for breach of contract. *Vaughn* v. *Butterfield*, 85 Ark. 289, 107 S. W. 993; *Fleckten* v. *Spicer*, 63 Minn. 454, 65 N. W. 926. In the case of a contract to sell a lease the assignee will be injured if either the assignor's or the lessor's title is defective. Accordingly it has been held that the prospective assignee need not accept an assignment if the lessor's title is bad. *Purvis* v. *Rayer*, 9 Price, 488; *Souter* v. *Drake*, 5 B. & Ad. 992. And it follows as before that a right to damages against the assignor should be allowed. The court in the principal case admits that the transaction here is only an executory agreement. But it then decides the case as if the sale were executed, with the result that the ground of its decision, that no covenants will be implied in an assignment, has no application to the facts.

LANDLORD AND TENANT — CONDITIONS AND COVENANTS IN LEASES — EFFECT OF RESTRICTION AGAINST ASSIGNMENT ON COMPULSORY LIQUIDATOR. — The liquidator in the compulsory winding up of a corporation sought a declaration that he might assign a lease which contained a covenant against assignment without the lessor's consent. From an order granting this relief, the lessor appealed. *Held*, that the appeal be allowed. *In re Farrow's Bank, Ltd.*, [1921] 2 Ch. 164 (C. A.).

Although such restrictions as the covenant in the principal case imposes are valid, a change of tenant is not regarded as a breach in several instances. If the change is by operation of law it is valid; as when the personal representative of a deceased succeeds to the term. *Charles* v. *Byrd*, 29 S. C. 544, 8 S. E. 1. See 1 WILLIAMS, EXECUTORS, 11 ed., 702. An execution sale, also, is held not to violate the covenant, as the transfer is by the sheriff, not by the lessee. *Doe* v. *Carter*, 8 T. R. 57; *Farnum* v. *Hefner*, 79 Cal. 575, 21 Pac. 955. And it is held that a trustee in bankruptcy may assign. *Gazlay* v. *Williams*, 210 U. S. 41. *Cf. Doe* v. *Clarke*, 8 East, 185; *In re Georgalas Bros.*, 245 Fed. 129 (N. D. Ohio). The reasons given are that, not being an assignee, the trustee is not bound by the covenant; or that such a transfer is necessary to protect the rights of the creditors. See *Doe* v. *Bevan*, 3 M. & S. 353, 360; *Gazlay* v. *Williams*, *supra*, at 47. These reasons seem inconclusive; and as the assignment by the trustee really violates the intent of the parties, the bankruptcy cases seem wrong. Their doctrine should certainly not be extended. Under the statute in the principal case the liquidator does not get title and the court distinguishes the bankruptcy cases on this ground. The distinction, though fine, is a justifiable means of avoiding an extension of the doctrine. Where the liquidator does get title, the bankruptcy cases are followed. *Liquidation of Citizens Savings & Trust Co.*, 171 Wis. 601, 177 N.W. 905.

LANDLORD AND TENANT — CONDITIONS AND COVENANTS IN LEASES — "RENEWAL" CONSTRUED TO MEAN EXTENSION. — The plaintiff leased to the defendant for five years, with an option to "renew" for two further periods of five years each at specified rents. Notice of the election to exercise the option was not expressly required. The defendant remained on the premises for nearly nine years without ever having given such notice, always paying the stipulated rent. The plaintiff then gave notice to vacate, and on the defendant's refusal to do so instituted forcible detainer proceedings. These proceedings were dismissed. *Held*, that the judgment be affirmed. *Klein* v. *Auto Delivery Co.*, 234 S. W. 213 (Ky.).